

**SEEKONK ZONING BOARD
REGULAR MEETING
MINUTES**

August 25, 2014

Present: Ch. Edward F. Grouke, Roger Ross, Robert Read, Neal Abelson (for Ron Blum), Keith Rondeau, Gary Sagar (for Keith Rondeau Mark Shane request only)

7:12 Chairman Edward F. Grouke called the meeting to order.

Ch. Grouke This is the meeting of the Town of Seekonk Zoning Board of Appeals, August 25, 2014. I am going to go over our Rules and Regulations. I am going to read each petition as it was advertised and call upon the petitioner or their representative to present their case. All testimony, including the testimony and statements of the petitioner and/or the representatives or witnesses will be taken under oath. The Board will ask questions of the petitioner and witnesses. Any questions from the podium will go through the Chair. We will hear from anyone in the audience to speak either in favor of or against the petition or with any questions. At the close of the evidence, we have a discussion and then take a vote. We also usually make a decision on the same night, although we are not required to do that. There are times that we may postpone a petition for another meeting either for a site visit or to gather some information. Once we have closed the public hearing and taken our vote, it is then reduced to writing and filed with the Town Clerk within 14 days of the date the vote is taken. Any person who feels that he is negatively affected by our decision, as long as he has the proper legal standing, has the right to appeal to the courts of the Commonwealth of Massachusetts; and anyone considering taking such an appeal has to have the proper legal standing and comply with very strict time limitations that are applicable to a court appeal. The time limits are very strict.

Work Session: 7:15

Request for one year extension: Mark T. Shane ZBA # **2012-20** 1530-1544 Fall River Avenue, Seekonk, MA (continued from August 18, 2014). Mr. Shane is not present at this meeting tonight, this request was on our docket last week, a week ago today, August 18th, and we considered it at that time. We asked for an opinion from our legal counsel and we have since received information from our legal counsel regarding our ability to grant an extension of Mr. Shane's special permit. We are here to discuss what we received from

Town Counsel and to decide what we are going to do with the request for an extension. I have a few thoughts on the matter. I see in the last paragraph of the letter, our attorney quotes a case from the land court that says “good cause for granting an extension of a special permit has been found by a court to exist if the delay is caused by an applicant going through the permitting process and therefore in the course of going through the permitting process, more than the allotted time has gone by for the special permit and good cause would be found if the other permits needed for the project were timely applied for, diligently pursued and still not have been acted upon. It seems Mr. Shane, that is exactly is situation. He has applied for different permits he needs for the project and it seems that would be good cause at least for this one case. It seems like the problem we have is who is going to make the determination of there being good cause. Our attorney seems to be saying that we do not have the authority to do that without a full hearing process; however, as I read the opinion, she is saying that the Building Inspector has the right to make that call.

R. Ross That is how I read it as well.

G Sagar We, as we sit here tonight, are powerless to do anything other than maybe refer it to the Building Commissioner.

R. Ross That is my view of it as well.

G. Sagar If he said no problem, you are all set...but if there has to be any further approval from this board, it is going to require, under 40A, public notice, abutters, the whole thing. He needs in essence a zoning determination.

R. Ross Yes, a zoning determination because of the pending permit applications, which he has pursued. As I recall, he was basically stymied because of the environmental management, the state was the stumbling block. He has done everything he can but according to counsel’s opinion we don’t have the authority, as Gary already said. We are constrained by the language of 40A. My view at this point is, putting aside the Building Inspector’s determination in the first place. As to this board, unless there is an application, which I am confident there is not, an application form for an extension, I would think that a letter filed with the office is tantamount to a formal application seeking the extension. However, it would have to be published, the abutters within 300’ would have to be notified and we would have to have a public hearing. I think the benefit of that as opposed to re-filing for a special permit is that it narrows the issue. We are not revisiting the whole project, we are not opening the public hearing to the pros and cons, or taking any comments on the project itself, we have the limited scope of the hearing should this be extended or not and if so, what is the basis of it. If Mr. Shane wants to go down that road, that would be my view and my recommendation. If the Building Inspector,

independent of this board, makes the determination that Mr. Shane has demonstrated good cause and makes that determination with a certificate of zoning compliance, I think our work is done. That is my view of Counsel's opinion. I am rather struck, by the way, the same land court case, the Braccia case, which I could not bring up because I don't have LexisNexis, also said that there is nothing in Section 9 that requires an affirmative determination by anyone for an extension. I am sure counsel did not take that out of context but it seems that someone has to make that determination.

G. Sagar On our application form, there are boxes you check for Special Permit, Variance, Appeal, and then there is "Other" if he does come back to this board, he could check off "other" and put extension of and assign another number that way if you make a formal decision and base it around the previous decision then he can go to the Registry of Deeds and record it and he should be all set.

Ch. Grouke My preference is to let the Building Inspector, which would seem to be the quickest thing.

MOTION:

G Sagar I move to refer this item to the Zoning Enforcement Officer for his determination based on Town Counsel's opinion.

FURTHER DISCUSSION:

R. Read Will he understand what the story is?

Ch. Grouke Yes, I think we can fill him in on some details.

R Ross We have no scheduled meetings? In the event the Zoning Enforcement Officer chooses not to make that determination, or makes a negative determination, how do we communicate with Mr. Shane?

Ch. Grouke I think he can appeal that.

R. Ross That's true, and he could come before us again.

G. Sagar And we could overrule his appeal. It has to be taken within 30 days.

Ch. Grouke Okay, so you made a motion, we need somebody to second.

VOTE:

N. Abelson seconded the motion to refer the matter to the Building Inspector/Zoning Official as stated by Town Counsel; **and so voted unanimously by:** Ch. Grouke, Roger Ross, Robert Read, Gary Sagar and Neal Abelson

VOTE: (Approve 5-0) 1 Abstain

K Rondeau abstained as he was not here at the previous meeting.

7:24

2014-16 R&F Seekonk, LLC, 7248 Morgan Road, Liverpool, New York, 13088, Owner, by Kathy Boudreau, R&F Seekonk, LLC, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, an amendment to ZBA Decision 2014-14 for a previously approved pylon sign and a **Variance and/or Special Permit** under Sections 12.4.4 and 12.3.3.1 of the Town of Seekonk Zoning Bylaws to allow an off-premise, 50' freestanding pylon sign for Longhorn Steakhouse adjacent to I-195, at 100 Highland Ave, Plat 8, Lot 121 in a HB Zone containing 602,667 sq. ft.

Ch. Grouke This matter was continued from our last meeting on August 18, 2014. We received a letter from the applicant asking to withdraw this petition without prejudice.

R Ross If we grant the withdrawal without prejudice and somewhere down the road they choose to revisit this, have they waived their appellant right from the zoning official to us? Would they have to come before us ab initio and look for a Variance or Special Permit because the period has clearly long since passed?

Ch. Grouke I don't recall considering that.

R. Ross It seems to me, if the appeal was withdrawn, they have lost the appeal. We don't have to deal with it tonight obviously but I am curious if that has come up in the past before.

Ch. Grouke I don't recall that coming up before. So the request by the applicant is to withdraw this petition without prejudice.

K Rondeau made a motion to uphold the decision of the Building Inspector, seconded by R. Read **and so voted unanimously by:** Ch. Grouke, Roger Ross, Robert Read, Keith Rondeau and Neal Abelson

VOTE: (Approve 5-0)

K Rondeau made a motion to close the public hearing, seconded by R. Read **and so voted unanimously by:** Ch. Grouke, Roger Ross, Robert Read, Keith Rondeau and Neal Abelson

VOTE: (Approve 5-0)

K Rondeau made a motion to accept the letter of withdrawal without prejudice, seconded by N. Abelson **and so voted unanimously by:** Ch. Grouke, Roger Ross, Keith Rondeau, Robert Read and Neal Abelson

VOTE: (Approve 5-0)

7:26

2014-19 Edward F. Lundgren, 49 Mink Street Seekonk, MA, Owner by Nine Warren Avenue, LLC, 49 Mink Street, Seekonk, MA Petitioner, requesting a **Comprehensive Permit**, pursuant to Massachusetts General Law Chapter 40B, and the Town of Seekonk, MA Zoning Board of Appeals Comprehensive Permit Regulations to allow construction of eight (8) homeownership units at 9 Warren Avenue, Plat 2, Lot 9 in an R-3 zone containing 5.96 acres +/-.

Paul Cusson

Delphic Associates 651 Orchard St, New Bedford, MA Sworn in. We have been hired by Ned (Lundgren) to help through the approval process with the Zoning Board of Appeals and all the different state agencies. Most of you already know Ned; he has been around town for many years and has done a lot of construction around town. We are here before the ZBA to seek approval under Massachusetts General Laws 40B. A development entity by the name of 9 Warren Ave LLC, has been created for the sole purpose of developing the property in accordance with Massachusetts laws 40B and will enter into the appropriate regulatory agreements and so forth at some stage through the process. I can explain the 40B process if you would like or I could just get right into the development itself. I am not sure how familiar the board is with why we are before the ZBA and not before the Planning Board. I could explain in general that process if you would like.

- Ch Groucke We have had a few petitions come before us under 40B so we have an understanding that we are acting as a “superboard” here that takes on the roles of other boards in acting on this petition, our review is going to encompass a lot of things but by the same token, we will also reach out to other boards for their input into this project.
- P. Cusson We have delivered 19 of these books to the Town, I think each board member has a copy, we have delivered them to the Fire, Police, DPW and so forth in accordance with your regulations.
- K Rondeau It may be worth a quick recap for people in the audience so they know what the 40B process is.
- P Cusson The reason we are before the ZBA rather than the Planning Board is because in accordance with M.G.L. 40B one has to go to the Zoning Board of Appeals if the community has less than 10% of its housing stock designated as low or moderate income housing. Seekonk has 1.6% as we sit here today. This board will act as the “superboard”, if you will, for all permits for all Boards except for state approvals; we still need certain state approvals. For example, we need to go before the Conservation Commission, which we have already done, and secure permits under the state law, not the local bylaw. The same with the building code, title 5; any state regulation. This board acts as a board for all other permits; fire, DPW, zoning, planning etc. Through that process you can seek the input from any board and any concerns they may have. As we go through this process, once this board makes a decision, that decision can be granted, denied or approved with conditions. The applicant can accept those or file an appeal through the Department of Housing and Community Development appeals committee. We are filing under the LIP program. In order to be here, an applicant has to demonstrate that they have a ticket to be before the board and that ticket basically is approval from a state agency. We have worked with the Board of Selectmen. The BOS has endorsed the proposal, they have signed an application under the Local Initiative Program (LIP), it is their application that has been forwarded, the state has approved that application so now we have to work out all the details and approvals with ZBA. That is a quick summary; I can answer any questions to the 40B process itself.
- Ch. Groucke Are there any questions? No questions.
- P. Cusson The Board has a complete application. Everybody should have in their packet, in section 6, a set of plans reduced to 11” x 17”. The site is approximately 5.96 acres of which approximately 2.37 acres are buildable. What we are proposing is the property from here to the back of the property goes about 800-900 ft.

We are proposing to build in the front of the property and towards the back there are wetlands, we have filed with Conservation Commission a notice of intent, that is we tell the Conservation Commission what we intend to build and develop. This is what we submitted to them with the wetland approvals and that sort of thing. They went through an engineering review process. A firm by the name of Horsley and Witten did a review for the Conservation Commission for drainage and all issues related to Conservation Commission which many are similar issues to what a Planning Board or Zoning Board of Appeals may have. The wetland line was approved, the drainage was approved, the layout has been approved and Conservation Commission has issued a decision, which we don't have yet, a notice of Order of Conditions. We filed a Notice of Intent, the hearing has been closed and we have an Order of Conditions which is highly unusual in this process. Typically, when we come before a ZBA, as you know that statute that the plans only have to be preliminary in nature, however, Ned has been working on this development since 2010 with different Boards and so forth so the plans are fully developed. We are ready to build. Those plans have been approved by Conservation Commission. An applicant going before ZBA can get that ticket two ways, one is going through the LIP which I already explained a little bit and that is what we are doing the other way is through Mass Housing. The LIP process is referred to as a "Friendly 40B" process in that we have the support from the Board of Selectmen. Included in your application, we have letters going back to, I think it is in section 1, I think it is a green piece of paper. I put together a narrative of the history of support. Back in 2010 Ned had appeared before the Housing Authority, the Board of Selectmen and the Planning Board and got endorsements from all of those groups and came before the ZBA to begin the process. With all due respect, it was done backwards and the Board recognized that at the time but he never had approval from the state. So, now he has approval from the state and we have included that in the packet. So that is the history of what happened in 2010. We have gone back to 2010 and we have letters of support. The development was a little different back then, we were looking at 12 units; we are at 8 units now. We had a letter from the Housing Authority; we have a letter from the BOS, the Planning Board and so forth; that is going back to 2010. We went before Board of Selectmen earlier this year and they signed the application. We went to DHCD, and they said, "Well, there are letters of support that you gave are great and they signed the application, but we want a little bit more." So, we went back to the Board of Selectmen in April and got a letter to DHCD from Mr. Parker, Chairman of the BOS giving his support for the development of 2.37 acres, we are proposing 4 buildings, each is a duplex. There are two bedroom and three bedroom units. According to the statute, 25% are set aside for low and moderate income families. There are two units that have been identified as to their location and those would be designated as affordable. Those units are sold through a housing lottery process that my company Delphic would be responsible for. We have two and

three bedrooms and all the units have garages shown as 2-car garages. The price, so what we have to do is set aside two units for low and moderate income families. And they call it low to moderate but I call it more of a moderate program for example, a family of 2 in Seekonk, if they earn \$51,000 a year they would qualify. The qualifying maximum income range for a household of 1 would be \$44,750; a family of 2, \$51,150; for a household of 3, \$57,550; and a household of 4, \$63,900. I don't call that low income but whatever it is, it is. The affordable units would be selling at a price; we have to do a certain sales matrix calculation. To qualify it is 80% of median income; that is how they arrive at those numbers. To price the affordable units, we take someone who is at 70% of the median income spending 30% of income for principal, interest, taxes, homeowners association fees, etc, based on the interest rate and tax rate, we come up with the calculation so it give us a 10% window. Those prices right now if we were to do the lottery today, would be \$184,000. But, by the time we actually get to the lottery, which hopefully won't be too far from now, the price could change a little bit. But we have to get approval of that pricing from the subsidizing agency which would be DHCD at the time of lottery. We have included in your package an Affirmative Fair Housing Marketing Plan (AFHMP), which is special advertising, we work with the town trying to attract as many town residents as possible, town employees, etc. We go the extra mile to access as many people as possible who live and work in town. In tab 6 we have the AFHMP, also our lottery plan as to what we are going to be proposing. There is also a list of waivers that we are asking for which is a requirement statutorily and regulatorily I think your town also requires it. The list of waivers has been submitted and is included in tab 7 of the package. I am not sure Mr. Chairman how you are going to do it but what we have done is gone and done it in a tabular format so you can look at the tab on the third column, whatever action the board takes on all of these waivers. Basically, the waivers, we have tried to put together a list of waivers, the engineers have done that, which basically allows the development to be built in accordance to the plans that have been submitted. Those are the waivers that we have submitted to the board and are requesting approval on those waivers. The LIP process is interesting and I have referred to it as a friendly process, and it can be an effective tool; not only on this development but on other developments on town, but specifically this development. We are creating an enclave unto itself. There are 4 buildings there, it creates a little neighborhood by itself which normally would not be allowed under your traditional bylaws, it would not be allowed under your Planning Board rules and regulations. But under 40B you can be very creative, I mean we have done some very large developments, to us this is a small easy project to manage. We have done some that have been a large combination of housing, some Town Planners really like the LIP process because they can do some creative things that otherwise they are not be able to do. We submitted 19 sets of plans to the town; the plans are complete and substantial. I think at

this point in time, if you have any questions about the process, the plans, etc, how the board wants to proceed.

Ned Lundgren The legal address for this is 49 Mink Street, Seekonk, Ma. Sworn in.

Ch Groucke I was thinking that this is a preliminary meeting tonight. One of the things we have to do is ask for input from other departments and one question I have is, I know you distributed the packet to different places in town. Have you received any feedback?

P. Cusson No. We have not received any phone calls or anything and these were delivered 5th or 6th of August. And the next day went to the other boards. They have all received it and under the Rules and Regulations it is encouraged that they give any comments they may have.

Ch. Groucke It would be upon us to make a formal request to the Boards to ask them for a reply within a certain amount of time and at another hearing we will see what they had to say. We definitely want time for a site visit. We did it a few years ago but we want to see the lay of the land. As far as peer review, that would be having an outside consultant assist us. How do you feel about that?

P. Cusson I feel it is a normal request however in this case we are so far along in the process and Horsley and Witten (H&W) has already reviewed it, so I would suggest that maybe you might want to talk to them. We would be glad to send them the same set of plans that we have here that they have already reviewed and maybe with all due respect, you could ask for their report that they sent to Conservation Commission, or ask Conservation Commission for their report that they received. It is my understanding that the engineering was done by a local firm, InSite Engineering, Paul Carlson did the engineering and he indicated to me that there are a couple of very minor comments from Horsley and Witten and he made those changes and submitted them to the Conservation Commission. I would suggest that, if you think everything is in order, ask H&W to save money and time, ask if they have other comments from Zoning Board of Appeals point of view.

Ch. Groucke That is a thought.

N. Lundgren H&W not only looked at the wetlands aspect but they also looked at the drainage for the entire road, driveway, downspout drainage, it was totally comprehensive to the entire project; not just wetlands.

P. Cusson Again, they approved the wetlands, filed a Notice of Intent, and they issued the Order of Conditions.

- Ch Groucke Are you aware of any other similar projects built to give us an idea of what this would look like?
- P. Cusson Not this small. It is not Ned's development but there is one in Westport, called Briggs Landing which is 60 houses and 29 have been built, they are all single family houses. Just to give you a feel, when you go into these developments, you cannot tell which units are affordable that is one of the tests. We don't want to stigmatize them; the inside might be a little different. We have developments in Dighton, Westport, Norwell, Norwood but I can't think of anything as nice as this. The Groves in Bridgewater, 24 duplex units, might be as nice but they were simple duplex units, about 1200 sq ft, no garage. It looked very nice but it was a different market, I think this is a lot nicer. I was also impressed with Ned's improving the house closest to Route 6. That is the quality of work he is doing, kind of like a Nantucket design which is kind of nice.
- N. Lundgren This will basically look like a 4-lot subdivision. You are going to pull in and it will be a little road and you will see 4 houses. While the houses are duplexes, they will have a farmer's porch. Each unit is 1,650 sq ft, so it will look like a 3,200 sq ft colonial with two garages. I am going to do vinyl outside.
- N. Abelson I was wondering because of the Commons.
- N. Lundgren Everything has an asphalt driveway, a two car garage.
- P. Cusson The 2 and 3 bedrooms are actually the same size square footage but the two bedrooms are laid out a lot differently, the two bedrooms have an additional bath but the size of the units is the same.
- N. Abelson The affordable units, will they be in the same building?
- N. Lundgren Separate buildings, the two closest two Warren Avenue.
- P. Cusson If you look at tab 5 we have a label and affordable distribution plan which shows what Ned pointed out showing the location of those affordable units.
- Ch Groucke Will there be a condo association?
- N. Lundgren Yes, there will be a condo association set up for all 8 units.
- P. Cusson I think we have to look at other possibilities and one of the things I am looking at is the possibility of doing individual duplexes with a party wall agreement. Condominiums, when you go to finance it sometimes it can be a little tricky but if you keep them by themselves and just have an agreement between the

two parties living there with a party wall meaning they have an agreement between themselves about painting, maintenance, and that sort of thing or it could be also a condominium/association that would be managing the driveway and those kinds of things which would all be common to everybody.

Ch Groucke The association is going to be responsible for long-term upkeep of the outside, that would be one thing we would be interested in to make sure.

P. Cusson I am not sure the individual units themselves will be maintained by the condo association, certainly the common grounds, we are not sure but there again, we are not sure from a marketing point of view whether or not we want all the grass cut by the association or whether we want the maintenance of the house, the roof, to be the responsibility of the owners. There is going to be some control there.

R. Ross On that specific issue, will that be part of the regulatory agreement that gets approved by the state?

P. Cusson No, the regulatory agreement does not get into the condominium association or party wall, whichever way we decide to go but a regulatory agreement regulates...9 Warren Ave LLC, will be a limited dividend organization. Their profit is limited based on the regulatory agreement, we are limited to 20% return on cost and that regulatory agreement is very specific in that at the end of the project, Ned has to submit cost certification requirements to DHCD showing what his cost was, the basis for the land. They have to; they are the watch dog on the limited dividend; that is what the regulatory agreement is all about. Also, it will have a monitoring agreement so when we do the housing lottery, we do the review of all the documents, the income to determine if someone qualifies and send it out to the South Shore Housing Development Corporation, which is the monitoring agent. They have to monitor to make sure the deed rider is proper and the units stay affordable in perpetuity. What happens is the town wants to make sure those houses get counted toward the subsidized housing inventory.

R. Ross So it is not for a term of years, it is so the units stay affordable in perpetuity?

P. Cusson Yes, part of the regulatory agreement is a deed rider. That deed rider says that you as an affordable buyer, if the affordables were selling for \$200,000 and the area mean income was \$100,000, they are selling those houses for 2 times the area mean income and it is called resale multiplier. So, in five or ten years when they decide to sell, whatever the area mean income is at that time, they can sell it for 2 times that amount and that is regulated in a deed rider. At that time, they call our office and we help them out with it but it says clearly they have to get that information from the monitoring agent so when they go to sell,

they have to notify the town. The town gets first right of refusal; the town has 60 days to buy if they want. Then they can go to the open market and sell it on the market to an affordable buyer. If they can't find an affordable buyer, they can sell it to someone who does not qualify but that deed rider stays with that deed so they can't turn around and pay \$200,000 and sell it for \$400,000 and put the money in their pocket. So the regulatory agreement monitors all those things. The regulatory agreement will ask for an endorsement from the ZBA and we use all of their standard forms.

R. Ross Just a quick question, the state wanted you to go back and have the BOS resubmit a letter of support, was that only because the interval of time?

P. Cusson Well, Toni Hall from DHCD, met us on the site and said, "This stuff is old." And I said, "They signed the application, why do we need another?" And she said she would like another letter. It was mostly because of time.

N. Lundgren I have owned this property since I think 2006. I have had a lot of experience on the Planning Board in town; I was on the Board for I think 10-12 years. I originally was going to do a 3-lot subdivision. Then I got thinking, the Town Planner said that is a great place for an affordable housing project. Originally I was going to try to put 12 units there. The perc-rate on that property is fantastic, all less than 2 minutes, it is pure sand. It is a good place for cluster development. Most of you may or may not know but I own a business in Seekonk, Champion Motorsports and I am really pretty busy with that so I dragged my feet on this project waiting for the economy to get better. I think the time is proper now to get this going and hopefully I will be building there in the spring. The hard part is going through the state process.

R Ross I have a question on the unit pricing. My understanding of what you did was you backed into the unit pricing based on 30% of gross income available to debt service to a prospective buyer.

P. Cusson No, 30% of somebody who is at 70%.

R. Ross Okay, 30% of a qualified person's gross income and then you take principal, interest, taxes, homeowner association fees and that is how you come up with the number in the matrix on that. You said as of this moment, you are looking maybe \$184,000 for the affordable unit. The letter from DHCD is at \$173,000 and it is dated 5 weeks ago, and the interest rates didn't change that much. What is the \$9,000 disparity between their pricing and your pricing?

P Cusson The regulatory agreement specifies how we get to the pricing. There are a couple of other things. The process is, that is not how we arrived at the sale price. The sales price has to be approved by the state, they have final word.

The DHCD rules and regulations state you have to figure 70% of median spending 30% of their income. I am assuming 5% down payment. That number you see there is 5% of the \$184K.

R. Ross Okay, so my question still stands. What is the disparity \$9,000 between your \$184,000 and the \$173,000 on a 5 week old letter?

P. Cusson I don't know, you'll have to ask DHCD, their pricing is sort of irrelevant. These are the regulations. And we have to get this approved by DHCD and we have to get our lottery approved by DHCD.

Ch. Grouke I would like to poll the audience at this time. Is there anyone to speak in favor of this petition?

Bob Perry 38 Balmoral Court, sworn in. I have no objections to the project and since Ned has been an abutting owner, we have had a good relationship with him.

Ned Lundgren I wanted to point out, I own this abutting property also, and although this is only 13' off this property line, I have constructed a berm along here and a new driveway that accesses this garage. It actually looks like quite a bit more and I intend to put an easement on the next door property. InSite has not been out there yet to site where this is. This property is 69' away from the property line.

N. Abelson Those driveways, are they across from each other, will fire apparatus be able to get there?

N. Lundgren They won't actually have to get in there, there is a fire hydrant right here at the corner of the property.

N. Abelson What is the distance from where the truck would stop?

N. Lundgren 350 feet, and a fire truck is not going to pull up next to a house on fire. They are going to pull up and stop here. The distance from the fire hydrant to where the truck would stop to put out the fire is probably 200 feet or less. I am hoping that is the way the fire department sees it. In preliminary discussions (inaudible)

P. Cusson Typically, we drop off a package to the Fire Department and if they have a comment about it, if they wanted to move the hydrant that is one of the things we are more than willing to take a look at. But I think it is okay the way it is.

Ch. Grouke Will the town plow that?

N. Lundgren No, it is a private driveway right from Warren Avenue. Absolutely.

- Ch. Grouke So that will have to be taken care of through the condo or homeowners association.
- N. Lundgren DHCD has suggested it would be \$80 dollars per month, per unit and that would cut the grass there, plow the driveways. It would be a little more on market rate.
- Ch. Grouke Then there will be more determination on what the condo or homeowners association will be responsible for. Will it be responsible for new roofs and maintenance?
- P. Cusson My recommendation is no, but that is up to Ned and the attorneys to figure out because what happens is that from a marketing point of view, when you go to sell and you sell a unit and there is money in there for a roof repair, painting, siding, that increases the condo fee substantially and is a negative to a certain extent on the marketing side so I would personally rather have a party wall agreement and they have a special assessment or it could be a condo and we don't know the answer but we'll get that answer quickly.
- Ch. Grouke We are interested in making sure they are kept up.
- K Rondeau What are the market rate units going for?
- N Lundgren I think around \$299,000 is what I would love to get. These units will be nice. I intend to own and keep 4 of the units for income. I intend to retain 4 and sell 4; two of which would be affordable.
- R. Ross Is this a mistake? You have 4 3-bedrooms with a bath and a half and 2 2-bedrooms with 2 and a half baths?
- P. Cusson That's correct. It looks like a mistake. The units are all the same size. So in a two bedroom, you have more area for the bedrooms so you have more area for bathrooms. It looks like a mistake but it is not.
- R. Ross On page 2 of the DHCD letter, #3, last sentence; I don't know what it means so if someone could help me out. "The submitted application has the two (2) affordable units, located next to the street rather than disbursed within the development. This shall be addressed at the ZBA." What's going to be addressed? What is the issue?
- N. Lundgren They just want to make sure that you are aware of where we are putting the affordable units.

- R. Ross So it's not an issue of their preference would be throughout the 8 rather than on the street?
- P. Cusson No.
- R. Ross They don't care?
- P. Cusson They are leaving that up to the Board.
- R. Ross Okay.
- P. Cusson For example, if we had two affordable units in the same building, I think that would be a problem, I don't think they would have given the report so they are bringing this to the attention of the board, so it is really up to...it is a local initiative...so it's really up to...
- R. Ross So it's just so we know where they are going?
- P. Cusson That's correct.
- N. Lundgren All the buildings will look exactly alike from the exterior, the interior finishes will definitely be different on the inside. There may be more carpeting in the affordable units as opposed to all hardwood floors; maybe carpeted stairs instead of oak stairs; laminate countertops instead of granite countertops.
- Ch. Grouke Do we get into that?
- N. Lundgren No.
- N. Abelson Do you have to show those upgrades from a standard unit? I thought they had to be similar on the outside and inside.
- N. Lundgren You can show them as upgrades as long as the exterior looks the same. The affordable units have to meet a base quality of acceptance by the building inspector. You can't put in cardboard countertops.
- P. Cusson The design principals in the regulations CMR 56 talks about the design can be different on the inside these specs are typical differences between affordable and market rate. It does not have to be barebones and then upgrades. The affordable units can have upgrades too but it cannot be used in the calculation of the sales price. What happens under the deed rider and regulatory agreement is there is a price of \$183,000 on the affordable; what I said earlier, you multiply two times. They cannot say I added a finished basement, etc., and add when I resell it, you can't do that. Only capital improvements are the

only things that can be calculated in the resale. If somebody's parent or friend has money and wants to add granite counter tops, it's allowed but it has to be outside of closing, can be changed but can't be on sale price HUD calculation. We have them sign a statement showing that amount is not to be used on the capital improvement resale calculation. Some buyers get gifts. Capital improvements are things you need to live in the house; improvements necessary to live in the unit, window upgrades, roof, septic. You don't need granite countertops, finished basement, that sort of thing.

Ch. Grouke We will be asking for input from the Town Planner, Board of Health, Conservation has already acted on this independently, the Water Department, Fire Department, Police Department, Building Inspector.

P. Cusson They should have already contacted you.

Ch. Grouke We will make a formal request to them for comments.

P. Cusson If you get any comments before the next meeting, please let us know what they are if there is anything we need to respond to we can take a look at it.

N. Lundgren If the Board wants to set up a site visit let me know when and I will make myself available; or any members of the audience.

P. Cusson I think you have to post the site visit.

R. Ross Yes.

Discussion ensued regarding the time of the site visit. The Board determined the site visit would be at 6:00PM and the meeting would be continued immediately afterwards at 7:00PM on September 22, 2014 in the Town Hall meeting room.

Ch. Grouke So we are supposed to come up with our major concerns; what do we all want to see happen here and that is for us to mull about.

P. Cusson Yes, but a small development like this; you don't have a lot of traffic. With Ned going through the process and meeting with all the Boards, I think we have addressed...but there might be other concerns we could discuss.

N. Abelson If you have the next meeting too quickly, some of the Boards would not have had a chance to meet because our Board doesn't have a meeting until the 9th and we won't have a chance to discuss anything until then.

- P. Cusson Usually, the Town Planner will have comments, the Fire Chief may have some comment, Conservation, but this has already gone through them. I don't expect many substantial comments.
- N. Abelson So you are going to get us a copy of the Order of Conditions?
- P. Cusson Yes. They voted but they are not drafted yet.
- Ch. Grouke We would also like to see a copy of the report from that engineering firm that has already been done.
- P. Cusson Could you request that from Conservation agent? You might get a copy of the report from Horsley & Witten, and Paul made changes to the plan and the plan they voted on reflect the changes that Horsley and Witten wanted.
- N. Lundgren In that review process, my cost to Horsley and Witten was \$5,000. It was a pretty thorough report.
- R. Ross They are a good firm too.
- Ch. Grouke Okay, so we are going to make a formal request to the other Boards and departments, and a copy of Horsley & Witten's report.
- R. Ross You are going to take care of that Chris, getting 5 copies of the engineer's peer review report.
- C. Testa Yes.
- P. Cusson If you don't mind, I would like a copy of that too.
- K. Rondeau If you don't mind, ask for a September 17 or 18 deadline for responses so we can look at them over the weekend prior to the meeting.
- N. Lundgren Has the Fire Chief position changed yet? When does that take place?
- R. Read The end of September.
- N. Abelson Just get the current Chief's opinion.
- P. Cusson Paul might have met with him already.

N. Lundgren I sent the plans to the Fire Chief so he has seen the building but I don't think he's seen the layout of the road so I will bring that to him. But he has approved the construction of the smoke detectors in the building and so forth.

P. Cusson In the package we gave him is the 11" x 17" set, exactly what you have.

K Rondeau made a motion to continue the public hearing until 6:00PM on September 22nd as a site visit at 9 Warren Avenue and continue the meeting at 7:00PM at the Town Hall, seconded by R. Ross **and so voted unanimously by:** Ch. Grouke, Roger Ross, Robert Read, Keith Rondeau and Neal Abelson

VOTE: (Approve 5-0)

N. Lundgren When you go to the site, pull right into the gravel entrance driveway.

N. Abelson made a motion to adjourn the meeting, seconded by R. Ross **and so voted unanimously by:** Ch. Grouke, Roger Ross, Robert Read, Keith Rondeau and Neal Abelson

VOTE: (Approve 5-0)

The meeting adjourned at 8:36PM

Respectfully submitted by:

Christina Testa, Secretary